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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No. 4725 of 2007
Date of decision: 06.12.2007

United India Insurance Co. Ltd. **...Appellant**

Versus

Sunita Bansal and others **...Respondents**

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CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Ms. Vandana Malhotra, Advocate for the appellant.

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RAJESH BINDAL, J.

The Insurance Company is in appeal before this Court against award of the Motor Accidents Claims Tribunal, Chandigarh (for short 'the Tribunal') wherein on account of death of Pankaj Bansal, his widow, minor daughters and widow mother have been granted compensation of Rs. 15,00,640/- in total. The amount was ordered to be distributed amongst the claimants. The accident or the negligence is not in dispute. The dispute is sought to be raised only on account of calculation of compensation by relying upon the income of the deceased. It is not disputed that deceased Pankaj Bansal was carrying on business as a sole proprietor of the firm and was filing income tax returns. The accident in the present case took place on October 6, 2005 when his car struck with a rashly driven Matador and Pankaj Bansal died at the spot. As per the evidence on record, the deceased being an income tax assessee was filing returns and for the period from April 1, 2003 to March 31, 2004, his income from business and profession was shown as Rs. 2,56,566/-, from April 1, 2004 to March 31, 2005 the income from business and profession was shown as Rs. 3,51,624/- and for the year in which the accident took place i.e. from April 1, 2005 to March 31, 2006, the income from business and profession was shown as Rs.

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3,20,023/-. The argument of the learned counsel for the appellant that income tax return for a period subsequent to accident and death of Pankaj Banal shows that his business had not suffered and steady income was continuing. Accordingly, to assess the compensation, the Tribunal has wrongly calculated the annual income of the deceased. However, such an argument cannot be accepted for the simple reason that this income was assessed for the financial year 2005-06 was partly for the period when deceased Pankaj Bansal was alive. There is no other material on record produced by the appellant to show that even after the death of Pankaj Bansal, the business continued and same level of income was generated. Not only this even this has not been disputed that business was being carried on by the deceased Pankaj Bansal as a sole proprietor of the firm for supply of equipments and instruments of heart and kidney to various hospitals, which apparently was a touring job.

With this material on record, I do not find any illegality has been committed by the learned Tribunal in assessing the compensation payable to the respondents/claimants.

Accordingly, the appeal is dismissed.

December 06, 2007 **(Rajesh Bindal)**
Pka **Judge**